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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,892	02/19/2004	Heinz Kettler	A-8927 .NOMP	9071

7590

09/09/2004

Stewart L. Gitler, Esq.  
HOFFMAN, WASSON & GITLER, PC  
Suite 522  
2461 South Clark Street  
Arlington, VA 22202

EXAMINER
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NELSON JR, MILTON

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/780,892

Applicant(s)

KETTLER ET AL.

Examiner

Milton Nelson, Jr.

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*MLW*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it includes reference to the disclosed "invention". Correction is required. See MPEP § 608.01(b).

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Germany. It is noted, however, that applicant has not filed a certified copy of the applications as required by 35 U.S.C. 119(b).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 10, it cannot be determined whether Applicant intends to positively claim a folding chair "or" a stacking chair. Also, the phrase "or the like" renders the claim indefinite because the claim include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 10, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 102(a) as being anticipated by Lo (6517161). Note the cover (13), struts (11, 12), strut movement (by way of members 3), cross strut (3), and stacking chair (see Figure 1).

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 102(a) as being anticipated by Lo (6517161). Note the cover (10), struts (1, 1), strut movement (by way of members

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22-30), groove (4), thickened end (12), cross strut (22), release between the strut and cross strut (portion 29 can be released from hole 15 in member 1), bevel (5), pin (26), hole (24), and stacking chair (see Figure 1).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo (6517161) in view of Raftery et al (4265483).

The primary reference shows all claimed structural features of the instant invention with the exception of the connection between at least one of the struts and the at least one cross strut being releasable (claim 4); wherein the connection is a screw connection (claim 5). Note the discussion of Lo above. Additionally note that Lo provides connection by way of the unlabeled fasteners (see Figure).

The secondary reference conventionally teaches the concept of configuring a seating assembly with connections between frame members provided with releasable fasteners in the form of screws (28).

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings found in the secondary reference by substituting releasable fasteners (screws) for the

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unlabeled fasteners shown in Figure 3 of the primary reference. The releasable fasteners (screws) provide means to selective disassemble the frame structure without damaging the structure.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lo (6517161) in view of Bottemiller (2004/0160109).

The primary reference shows all claimed structural features of the instant invention with the exception of a cross connecting bow with two lower projections which can be placed into upper openings of the at least two struts. Note the discussion of Lo above.

The secondary reference conventionally teaches the concept of configuring a seating assembly with a cross connecting bow (46) with two lower projections (64, 66) which can be placed into upper openings (56, 56) of at least two struts (42, 44).

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings found in the secondary reference by adding a cross connecting bow with two lower projections, and upper openings in the two struts, wherein the projections can be placed into the upper openings. Such provides an assembly for improving head support and overall comfort of the chair, while accommodating tensions applied on the flexible cover.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borggren et al (3844612) in view of Bottemiller (2004/0160109).

The primary reference shows all claimed structural features of the instant invention with the exception of a cross connecting bow with two lower projections which can be placed into upper openings of the at least two struts. Note the discussion of Borggren et al above.

The secondary reference conventionally teaches the concept of configuring a seating assembly with a cross connecting bow (46) with two lower projections (64, 66) which can be placed into upper openings (56, 56) of at least two struts (42, 44).

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings found in the secondary reference by adding a cross connecting bow with two lower projections, and upper openings in the two struts, wherein the projections can be placed into the upper openings. Such provides an assembly for improving head support and overall comfort of the chair, while accommodating tensions applied on the flexible cover.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lo (6517161) in view of Schmid et al (6030040).

The primary reference shows all claimed structural features of the instant invention with the exception of the cover consisting essentially of textiles.

The secondary reference conventionally teaches the concept of configuring a seating assembly with a cover consisting essentially of textiles.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings

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found in the secondary reference configuring the cover as consisting essentially of textiles. Such provides a cover assembly that is configured for accommodating tensions applied to the cover.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borggren et al (3844612) in view of Schmid et al (6030040).

The primary reference shows all claimed structural features of the instant invention with the exception of the cover consisting essentially of textiles.

The secondary reference conventionally teaches the concept of configuring a seating assembly with a cover consisting essentially of textiles.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings found in the secondary reference configuring the cover as consisting essentially of textiles. Such provides a cover assembly that is configured for accommodating tensions applied to the cover.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A textile cover assembly is shown by Elzenbeck (6370714). Grimshaw (3289220) shows an assembly for selectively tensioning a cover. Similarly note Picard (6604792).

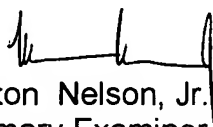


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is 7033082117. The examiner can normally be reached on Monday-Friday 5:30-3:00.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Milton Nelson, Jr.  
Primary Examiner  
Art Unit 3636

mn  
September 6, 2004